



Civil Aviation Act 1982

1982 CHAPTER 16

PART II

AERODROMES AND OTHER LAND

Powers in relation to land exercisable in connection with civil aviation

44 Power to obtain rights over land.

- (1) The Secretary of State may make an order under this section if he is satisfied that it is expedient to do so in order—
 - (a) to secure the safe and efficient use for civil aviation purposes of any land which is vested in a relevant authority or which such an authority proposes to acquire; or
 - (b) to secure the provision of any services required in relation to any such land; or
 - (c) to secure that civil aircraft may be navigated with safety and efficiency.
- (2) Such an order may provide for the creation—
 - (a) if it is made by virtue of paragraph (a) or (b) of subsection (1) above, in favour of the relevant authority in question or, where that authority is Eurocontrol, either of Eurocontrol or of the Secretary of State, or
 - (b) if it is made by virtue of paragraph (c) of that subsection, in favour of the Secretary of State,of easements or servitudes over land or of other rights in or in relation to land, including rights to carry out and maintain works on any land and to install and maintain structures and apparatus on, under, over or across any land.
- (3) Any such order may contain such consequential, incidental and supplemental provisions as appear to the Secretary of State to be necessary or expedient for the purposes of the order, including, in particular, provisions for authorising persons to enter upon land for the purpose of carrying out, installing, maintaining or removing any works, structures or apparatus.

Changes to legislation: Civil Aviation Act 1982, Section 44 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) Subject to subsection (5) below, no person shall, in the exercise of a power conferred by any such order, enter upon land which is occupied, unless, not less than seven days before the day upon which the entry is made, there has been served upon the occupier of the land a notice—
- (a) stating that an entry will be made upon the land upon that day in the exercise of powers conferred by the order; and
 - (b) specifying the purposes for which the entry will be made.
- (5) Nothing in subsection (4) above shall restrict the right of any person to enter upon land in a case of emergency or for the purpose of performing any functions which are required to be performed from time to time in connection with the maintenance or use of any works, structures or apparatus.
- (6) Where any land is damaged in the exercise of any power of entry conferred by any such order, then—
- (a) if the relevant authority in whose favour the order was made is the Secretary of State or Eurocontrol, the Secretary of State,^{F1} . . .
 - (b) if the relevant authority in whose favour the order was made is the CAA, the CAA,^{F2} and
 - (c) if the relevant authority in whose favour the order was made is a licence holder, the licence holder,]

shall pay such compensation to the persons interested in the land as may be just; and where any dispute arises as to whether compensation is payable under this subsection, or as to the amount of any such compensation, or as to the persons to whom it is payable, the dispute shall be referred to and determined by the [^{F3}appropriate tribunal].

^{F4}(7) The ownership of anything shall not be affected by reason only that it is placed on or under, or affixed, to, any land in pursuance of any such order.

^{F4}(7A) So long as any such order is in force, no person shall, except with the necessary consent, wilfully interfere—

- (a) with any works carried out on any land in pursuance of the order, or
- (b) with anything installed on, under, over or across any land in pursuance of the order.

^{F4}(7B) The necessary consent is—

- (a) if the relevant authority in whose favour the order is made is the Secretary of State or Eurocontrol, the consent of the Secretary of State,
- (b) if that relevant authority is the CAA , the consent of the Secretary of State or the CAA , and
- (c) if that relevant authority is a licence holder, the consent of the licence holder.]

(8) Subject to the special provisions of this Part of this Act relating to statutory undertakers, Schedule 7 to this Act shall have effect with respect to orders under this section.

(9) Where an order under this section provides for the creation of an easement or servitude over land held by a statutory undertaker for the purposes of the carrying on of his undertaking, or of any other right in or in relation to such land, then, if on a representation made to the Secretary of State before the expiration of the time within which objections to the order may be made the Secretary of State is satisfied that the easement, servitude or right could not be enjoyed without serious detriment to the

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carrying on of the undertaking, and certifies accordingly, the order shall be subject to special parliamentary procedure.

(10) If any person contravenes the provisions of subsection [F5(7A)] above he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £500 or to both; and every person who wilfully obstructs any person in the exercise of any power of entry conferred by an order under this section shall be liable, on summary conviction, to a fine not exceeding £100.

(11) Proceedings for an offence under this section shall not be instituted—

- (a) in England and Wales, except by or with the consent of the Secretary of State or by or with the consent of the Director of Public Prosecutions;
- (b) in Northern Ireland, except by or with the consent of the Secretary of State or by the Attorney General for Northern Ireland;

except that in England and Wales and in Northern Ireland such proceedings may be instituted by the CAA without such consent if the relevant authority in whose favour the order in question was made is the CAA.

(12) The following are relevant authorities for the purposes of this section, that is to say—

- (a) the Secretary of State;
- (b) Eurocontrol; F1 . . .
- (c) the CAA; F6 and
- (d) a licence holder;]

and in this section and in Schedule 7 to this Act as it has effect with respect to orders under this section, references to land vested in or proposed to be acquired by a relevant authority shall include references to land occupied or, as the case may be, proposed to be occupied by Eurocontrol.

Textual Amendments

- F1** Words in s. 44(6)(a)(12)(b) repealed (1.4.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. 1(4)**; S.I. 2001/869, **art. 2**
- F2** S. 44(6)(c) and the preceding word “and” inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 4(2)** (with s. 106); S.I. 2001/869, **art. 2**
- F3** Words in s. 44(6) substituted (1.6.2009) by **The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307)**, art. 1, **Sch. 1 para. 153** (with Sch. 5)
- F4** S. 44(7)(7A)(7B) substituted (1.4.2001) for s. 44(7) by 2000 c. 38, s. 36, **Sch. 4 para. 4(3)** (with s. 106); S.I. 2001/869, **art. 2**
- F5** Word in s. 44(10) substituted (8.7.2004) by **The Transport Act 2000 (Consequential Amendment) Order 2004 (S.I. 2004/1755)**, **art. 2**
- F6** S. 44(12)(d) and the preceding word “and” inserted (1.4.2001) by 2000 c. 38, s. 36, **Sch. 4 para. 4(4)** (with s. 106); S.I. 2001/869, **art. 2**

Modifications etc. (not altering text)

- C1** Ss. 44–46 extended with modifications by **Airports Act 1986 (c. 31, SIF 9)**, s. 59(3)(4)

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Changes and effects yet to be applied to :

- s. 44(10) words substituted by [2003 c. 44 Sch. 26 para. 30\(2\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket Amendment words substituted by [2005 c. 4 Sch. 11 para. 1\(2\)](#)
- Blanket amendment words substituted by [S.I. 2011/1043 art. 36](#)